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TRANSMITTAL FORM (to be used for all correspondence after initial filing)			
		Application Number	10/691,216
		Filing Date	Oct 22, 2003
		First Named Inventor	Han, Richard A.
		Art Unit	2131
		Examiner Name	Moorthy, Aravind K.
Total Number of Pages in This Submission		Attorney Docket Number	500.0344 (10806.00)

ENCLOSURES *(Check all that apply)*

☐ Fee Transmittal Form	☐ Drawing(s)	☐ After Allowance communication to TC
☐ Fee Attached	☐ Licensing-related Papers	☐ Appeal Communication to Board of Appeals and Interferences
☐ Amendment / Reply	☐ Petition	☒ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
☐ After Final	☐ Petition to Convert to a Provisional Application	☐ Proprietary Information
☐ Affidavits/declaration(s)	☐ Power of Attorney, Revocation Change of Correspondence Address	☐ Status Letter
☐ Extension of Time Request	☐ Terminal Disclaimer	☐ Other Enclosure(s) (please identify below):
☐ Express Abandonment Request	☐ Request for Refund	
☐ Information Disclosure Statement	☐ CD, Number of CD(s) _____	
	☐ Landscape Table on CD	
☐ Certified Copy of Priority Document(s)		
☐ Reply to Missing Parts/ Incomplete Application	Remarks	
☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Priest & Goldstein, PLLC		
Signature	Peter H. Priest		
Printed name	Peter H. Priest		
Date	December 15, 2008	Reg. No.	30210

CERTIFICATE OF TRANSMISSION/MAILING

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Signature	Marianna Tortorelli		
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This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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500.0344 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	:	Han et al.
For	:	Controlled Access to Software Applications And/Or Data
Serial No.	:	10/691,216
Filed	:	10/22/2003
Group	:	2131
Examiner	:	Moorthy, Aravind K.

Durham, North Carolina
December 15, 2008

MAIL STOP APPEAL BRIEF – PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPELLANT'S BRIEF

Dear Sirs:

1. Transmitted herewith is the APPEAL BRIEF in this application with respect to the Notice of Appeal filed on October 15, 2008.

2. The Applicant is other than a small entity.

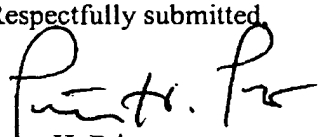
3. Pursuant to 37 CFR 1.17(f) the fee for filing the Appeal Brief is $540.00.

[x] The Commissioner is hereby authorized to charge the fee of $540 to NCR Corporation Deposit Account No. 14-0225.

[ ] The Commissioner is hereby authorized to charge the one month extension of time fee of $130 to our credit card. The letter petitions for a one month extension of time. A copy of credit card form PTO 2038 is enclosed.

[x] The Commissioner is hereby authorized to charge any additional fees which may be required or credit any overpayment to NCR Corporation Deposit Account No. 14-0225.

Respectfully submitted,



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APPELLANTS' BRIEF

Sir:

1. The Real Party In Interest

The real party in interest is the assignee, NCR Corporation.

2. Related Appeals and Interferences

None.

3. Status of the Claims

This is an appeal from the July 15, 2008 final rejection ("the final rejection") of claims 1-10 and 12-20, all of the pending claims. Claims 1-10 and 12-20 were rejected under 35 U.S.C. § 102(e) based on Hauck U.S. Patent No. 7,249,262 (Hauck).

4. Status of Amendments

The claims stand as last amended on April 28, 2008. No Amendment After Final has been filed.

5. Summary of Claimed Subject Matter

The present invention addresses techniques for identifying devices authorized for access to software or data, and for providing such access only to authorized devices.

Claim 1

In one aspect, the invention of claim 1 addresses a system for a licensee to control access to or distribution of software and/or data among a plurality of client nodes. The system comprises means for storing software and/or data that is to be made available to predetermined licensed client nodes, as described at p. 2, lines 4-6, for example. Each client node of the plurality of client nodes is a data processing device for which access to specified software or data may be allowed if licensed, and the system comprises means for storing a list of identifiers for licensed client nodes, with each identifier uniquely identifying one of the predetermined nodes, the presence of each identifier on the list authorizing the predetermined client node associated with the identifier to be allowed access to the software and/or data, as illustrated at Fig. 1, steps 101 and 102, and Fig. 3, server 301, database 303, for example, and discussed at specification, p. 4, line 22-p. 5, line 5; and p. 6, line 11-p. 7, line 2, for example. Claim 1 further addresses a client application at each client node, the client application performing authentication taking

place at the client node, authentication being accomplished by comparing the client identifier for the node against the list and allowing or rejecting access to the software and/or data by the client node at which the client application resides based on evaluation by the client application at the client node as to whether the identifier of the client node appears in the list, as illustrated at Fig. 3, CD 310, and discussed at specification, p. 5, lines 11-15 and p. 7, lines 12-19, for example.

Claim 9

In another aspect, the invention of claim 9 addresses a method for a licensee to control access to or distribution of software and/or data among a plurality of client nodes. The method comprises storing in association with the software and/or data, a list of unique identifiers for licensed client nodes, each of which uniquely identifies one of the nodes authorized to be allowed access to the software and/or data, as illustrated at Fig. 1, step 103 and discussed at specification, p. 4, line 22-p. 5, line 6, for example. Claim 9 further addresses identifying at each node whether a unique identifier for a particular node is included on the list, and controlling the operation of each node so that the list is examined at each node and the unique identifier is compared against the list, and loading, installation, or use of the software and/or data is allowed or rejected based on the comparison at the client node of the unique identifier against the list, as illustrated at Fig. 2, steps 202-206, and discussed at specification, p. 5, lines 20-27, for example.

Claim 10

In another aspect, the invention of claim 10 addresses a program storage device, readable by a machine, having encoded thereon instructions executable by the machine for executing a license management program to establish a unique identifier associated with the machine executing the instructions, reading a list of unique identifiers associated with specified software and/or data, each unique identifier being uniquely associated with one of a plurality of machines

and establishing its associated machine as licensed for the specified software and/or data, and controlling the operation of a client node comprising the machine executing the instructions so as to allow or reject access by the machine to the software and/or data based on a comparison taking place at the client node of the unique identifier for the client node against the list of unique identifiers, as illustrated at Fig. 3, floppy disc 308, CD 310, and discussed at specification, p. 6, line 11-p. 7, line 19, for example.

Claim 13

In another aspect, the invention of claim 13 addresses data processing device serving as a client node comprising means for reading a list of unique identifiers associated with software and/or data, each unique identifier being uniquely associated with one of a plurality of client nodes or terminals licensed to use the software and/or data and means for controlling the operation of the data processing device so that the data processing device examines its own unique identifier and the list of unique identifiers and allows or rejects loading, installation, or use of the software and/or data based on a comparison taking place at the data processing device of its own unique identifier against the list of unique identifiers, as illustrated at Fig. 3, client node 302, and discussed at specification, p. 6, line 11-p. 7, line 19, for example.

Claim 16

In another aspect, the invention of claim 16 addresses a self-service terminal comprising means for reading a list of unique identifiers associated with software and/or data, each unique identifier being uniquely associated with one of a plurality of self-service terminals licensed to use the associated software and/or data and means for controlling the operation of the self-service terminal so that the self-service terminal examines a unique identifier associated with the self-service terminal and the list of unique identifiers and allows or rejects loading, installation,

or use of the software and/or data based on a comparison taking place at the self-service terminal of the unique identifier of the self-service terminal against the list of unique identifiers, as illustrated at Fig. 3, client node 302, and discussed at specification, p. 6, line 11-p. 7, line 19, for example.

6. Grounds of Rejection to be Reviewed on Appeal

Claims 1-10 and 12-20 stand rejected under 35 U.S.C. § 102(e) based on Hauck.

7. Argument

A. Rejection under 35 U.S.C. § 102(e) over Hauck

The rejection under 35 U.S.C. § 102(e) does not follow MPEP § 706.02(V) which states at page 700-23 "for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly." In contrast with this clear requirement, the final Office Action bases an anticipation rejection on portions of Hauck, which do not teach each feature of the claimed combination of elements and thus cannot anticipate the presently claimed invention. For the above reason, this rejection should be reversed.

Claim 1

Claim 1 addresses a system for control of access to or distribution of data or software, comprising means for storing the software or data, and for storing a list of identifiers for licensed client nodes, as well a client application at each client node, performing authentication taking place at the client node by comparing the client identifier for the node against the list. Hauck addresses systems and techniques for managing access to web sites by remote users. A client side software program is used to generate a machine specific identifier, which is in turn used to authenticate a client machine to a server. A session identifier is established for an authenticated client, and the session identifier is maintained in a remote temporary storage table storing session

identifiers for authorized machines. Each request for access from a client to a server includes the session identifier and the temporary storage table is consulted to establish the authenticity of the submitted session identifier before responding to the request for access.

Claim 1, by contrast, addresses a system for control involving authentication taking place at the client node, in which the appearance of the client node's identifier on a list of identifiers of authorized clients is examined by a client application at the client node in order to determine whether the client node will allow access to software or data. Hauck does not teach and does not make obvious such authentication, but instead teaches examination by a server of a storage table for the appearance of a session identifier submitted by a client.

The Official Action relies on Hauck, col. 7, lines 23-32, which teaches a client side